In the Supreme Court of the United States

OCTOBER TERM, 1954

No. 502

WATERMAN STEAMSHIP CORPORATION, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

This cause resembles No. 501, *Waterman Steamship Corporation* v. *United States,* to which we respectfully make reference, to the extent that it also presents a suit for general average with respect to government owned cargo. The facts in this case, however, present the additional feature that the vessel, on which the government cargo was being carried, was owned by the United States, bareboat chartered out to petitioner, and time chartered back by the United States (Pet. 15).

In these circumstances exclusive jurisdiction is vested in the district court not merely under

333150—55

the cargo clause of the Suits in Admiralty Act, but also on the additional ground that the vessel was owned by and operated for the United States. *Field* v. *United States,* 125 C. Cls. 559, certiorari denied, 346 U. S. 922. The decisions of this Court in *Calmar S. S. Corp.* v. *United States,* 345 U. S. 446, 454, 456 and *Matson Navigation Co.* v. *United States,* 284 U. S. 352, 357, 358, establish conclusively that a vessel time chartered by the United States is *operated for* the United States and thus within the scope of the Suits in Admiralty Act.[1] Admiralty jurisdiction of this case, accordingly, is based not only upon the cargo clause, but on additional factors with respect to which this Court has already ruled authoritatively.

Petitioner's alternative argument that the nature of the vessel's operation constituted it a

---

[1] Petitioner's apprehension with respect to the substitution of the in personam liability of the United States for the in rem liability of the vessel and her owners (Pet. 7, 8–9) presents no basis for departing from the purpose and language of the Act. The provision accepting in personam liability for claims against vessels "operated for" the United States was intended to provide seamen and others full protection while preventing damage to the national interest by interference with the operations of such vessels by in rem proceedings. *Burkholder* v. *United States,* 60 F. Supp. 700, 703 (E. D. Pa.); *Pineiro* v. *United States,* 65 F. Supp. 191 (N. D. Calif.); *Epstein* v. *United States,* 86 F. Supp. 740 (S. D. N. Y.); *A. H. Bull SS Co.* v. *United States,* 105 F. Supp. 474, 479 (S. D. N. Y.). The time charter may, of course, provide indemnity from the owner in addition to the normal right to reimbursements.

public vessel rather than a merchant vessel (Pet. 5, 7) raises precisely the issue which was before this Court in *Calmar Steamship Corp.* v. *United States,* 345 U. S. 446. There are here no new circumstances or other reasons for a reexamination of that issue in the present case.

CONCLUSION

For the above reasons it is respectfully submitted that the petition for a writ of certiorari should be denied.

SIMON E. SOBELOFF,
Solicitor General.

MARCH 1955.

U. S. GOVERNMENT PRINTING OFFICE: 1955